



**AN AMENDED ORDINANCE BY
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**AN ORDINANCE ADDING CHAPTER 43 TO THE ATLANTA CITY CODE
OF ORDINANCES TO PLACE RESTRICTIONS ON COMMERCIAL
SOLICITATION AND PROVIDE OUTREACH SERVICES TO THOSE IN
NEED; AND FOR OTHER PURPOSES.**

WHEREAS, the City of Atlanta wants to protect the well-being of its citizens, tourists and visitors and provide substantive outreach services to those in need; and

WHEREAS, Downtown Atlanta, including the "Tourist Triangle" and the "Downtown Community Improvement District," is a vital citizen, tourist, and visitor attraction area for the City; and

WHEREAS, the City of Atlanta wants to protect and enhance the City's attractions to citizens, tourists and visitors; and

WHEREAS, the City of Atlanta wants to continue to attract businesses to, and retain the current businesses in, Downtown Atlanta; and

WHEREAS, commercial solicitation causes a sense of fear and intimidation, particularly at night or in confined areas; and

WHEREAS, commercial solicitation, through repetitive solicitation despite refusals, obscene behavior and language, unwanted physical contact or obstruction of traffic creates fear in visitors and residents of Downtown Atlanta; and

WHEREAS, commercial solicitation in Downtown Atlanta impacts tourism and retail and causes a decrease in generated revenues to the City and its business community; and

WHEREAS, commercial solicitation has a negative impact on the retention of businesses in Downtown Atlanta and discourages businesses from locating in Downtown Atlanta; and

WHEREAS, commercial solicitation in Downtown Atlanta contributes to the negative perceptions of the City of Atlanta, which discourages tourism and retail and contributes to the lack of enjoyment of public places; and

WHEREAS, commercial solicitation throughout Downtown Atlanta is a common presence and disturbance to residents and businesses; and

WHEREAS, commercial solicitation drives customers away from businesses in Downtown Atlanta, therefore, affecting business transactions and threatening potential economic growth; and

WHEREAS, the Martin Luther King, Jr. Center, which is comprised of Freedom Hall, the National Park Service Visitor Center and the King Center attracts more than 650,000 visitors annually; and



WHEREAS, this area holds a unique position in the City, and is recognized both nationally and internationally for its singular nature as a tourist and historical site; and

WHEREAS, in other cities that rely heavily on tourism for generating revenues, commercial solicitation has been restricted in downtown areas or around tourist destinations; and

WHEREAS, the City is cognizant of the need to make available alternate channels for communication for commercial solicitation and will permit such in areas as set forth below; and

WHEREAS, the City of Atlanta is sensitive to the plight of individuals who must commercially solicit and has been actively engaged in providing support services to address homelessness in Atlanta; and

WHEREAS, the City of Atlanta is committed to protecting the rights and freedoms of all, including the First Amendment rights, and

WHEREAS, with due regard to protecting the rights and freedoms of all, the City of Atlanta is also committed to providing a safe and livable community, and seeks to address the problems associated with commercial solicitation,

NOW THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:

SECTION 1

Chapter 43 shall be added and read as follows:

Sec. 43-1 Commercial Solicitation.

(1) Definitions:

- a. "Commercial Solicitation" or "to commercially solicit" is any request made in person on a street, sidewalk, or public place, without a permit, asking for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial Solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person.
- b. "Outreach Team Evaluator" shall mean an individual counselor or group of counselors authorized and designated by the Mayor to provide access to Community Outreach Services for individuals with mental health diagnoses and/or drug and alcohol complications, or other medical or social services needs. The Outreach Team Evaluator shall make recommendations that an individual receive Community Outreach Services, and may take reasonable steps toward directing the person to the appropriate community outreach program service provider, including but not limited



to offering transportation to such provider. An Outreach Team Evaluator shall not have the authority to compel an individual to receive Community Outreach Services.

- c. "Community Outreach Services" means a public or private services provider that offers residential and/or rehabilitative medical or social services assistance, including but not limited to mental health treatment, drug or alcohol rehabilitation, or homeless assistance services for individuals in need thereof. The Mayor shall determine what service providers constitute an eligible Community Outreach Service provider for purposes of this Section.
- d. "Evaluation" means the written assessment of an individual's mental health, the presence of drug and alcohol complications, or other medical or social service needs by visual analysis and/or by verbal communication with the individual. Evaluation may be performed by either an Outreach Team Evaluator or a law enforcement officer. An evaluation shall not serve to compel an individual to receive Community Outreach Services nor shall an evaluation serve to increase the penalty assessed as provided for in Sec. 43-6.
- e. The "Tourist Triangle" means the area defined by the boundaries of the following named streets, including both sides of each named street and each corner of intersecting named streets:
- Martin Luther King Jr. Drive SW from Courtland Street SE to Peachtree Street SW; Peachtree Street SW from Martin Luther King Jr. Drive SE to Alabama Street SW; Alabama Street SW from Peachtree Street SW to Forsyth Street SW; Forsyth Street SW from Alabama Street SW to Marietta Street NW; Marietta Street NW from Forsyth SW to Jones Avenue NW (Ivan Allen Boulevard NW); Jones Avenue NW (Ivan Allen Boulevard NW) from Marietta Street NW to Alexander Street NW; Alexander Street NW from Jones Avenue NW to Ralph McGill Boulevard NE; Ralph McGill Boulevard NE to Peachtree Street NE; Peachtree Street NE from Ralph McGill Boulevard NE to Peachtree Center Avenue NE; Peachtree Center Avenue NE from Peachtree Street NE to Baker Street NE; Baker Street NE from Peachtree Center Avenue NE to Piedmont Avenue NE; Piedmont Avenue NE from Baker Street NE to Edgewood Avenue SE; Edgewood Avenue SE from Piedmont Avenue NE to Courtland Street SE; Courtland Street SE from Edgewood Avenue SE to Martin Luther King Jr. Drive SW.
- f. The "King Center Tourist Area" means the area defined by the boundaries of the following named streets, including both sides of each named street and each corner of intersecting named streets: Irwin Street, NE from Jackson Street, NE to Boulevard NE; Boulevard NE from Irwin Street, NE to Auburn Avenue, NE; Auburn Avenue, NE from Boulevard NE to Jackson Street, NE; Jackson Street, NE from Auburn Avenue, NE to Irwin Street, NE.

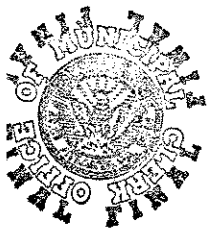


Commercial Solicitation In Certain Areas. It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the City of Atlanta, unless otherwise provided for in Sec. 43-2(1)(c):

- a. On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- b. Within 15 feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet);
- c. Within 15 feet of an automatic teller machine (ATM), provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- d. Within 15 feet of any parking lot pay box;
- e. Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- f. In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxi stand;
- g. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
- h. In a parking lot or garage owned or operated by the City of Atlanta, including entryways or exits and pay stations connected therewith;
- i. Within 15 feet of any valid vendor location, as defined in the Atlanta City Code, chapter 30, article XXIII, division 1, section 30-1401 and article XXIV, division 1, section 30-1461;
- j. Within the "Tourist Triangle" area as defined in Sec. 43-1(1)(d).
- k. Within the "King Center Tourist Area" area as defined in Sec. 43-1(1)(f).

(3) **Nighttime Commercial Solicitation.** It shall be unlawful for any person to commercially solicit after sunset and before sunrise.

(4) **Aggressive Solicitation.** It shall be unlawful for any person to commercially solicit in any of the following manners:



- a. By blocking the path of the person solicited; or
 - b. By following or walking alongside the person solicited; or
 - c. By using profane or abusive language, either during the solicitation or following refusal; or
 - d. By accosting or forcing oneself upon the company of another, as is defined in Section 106-85; or
 - e. By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.
- (5) **False or Misleading Solicitation.** It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:
- a. Stating that the solicitor is from out of town and stranded when such is not true;
 - b. Stating or suggesting falsely that the solicitor is either a present or former member of the armed service indicated;
 - c. Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
 - d. Use of any makeup or device to simulate a deformity; or
 - e. Stating that the solicitor is homeless, when he or she is not.
- (6) **Penalties.** Penalties for violations of this section shall be as follows:
- a. **First Violation:** Upon a first violation, the person accused of violating this section shall be issued a warning ticket, which shall not include a summons to appear before a court of proper jurisdiction or shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case.
 - 1. The Outreach Team Evaluator shall make an evaluation of the person issued a warning ticket or citation under this section, wherein such evaluation shall be forwarded to the prosecutor prosecuting the violation.
 - 2. The Outreach Team Evaluator shall offer immediate referral and direction to an appropriate Community Outreach Services program to each and every person issued a citation under this section.
 - 3. In the event an Outreach Team Evaluator is not available for any reason, the citation shall note the time of contact with the Outreach



Team Evaluator and the law enforcement officer issuing the citation shall include an evaluation.

b.

Second Violation:

- i. Upon a second violation, the person accused of violating this section shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case, and the law enforcement officer issuing the citation shall request an Outreach Team Evaluator to make an onsite evaluation of the violator.

1. The Outreach Team Evaluator shall make a written evaluation of the person issued a citation under this section, wherein such written evaluation shall be forwarded to the accused and to the prosecutor prosecuting the violation.
2. The Outreach Team Evaluator shall offer immediate referral and direction to an appropriate Community Outreach Services program to each and every person issued a citation under this section.
3. In the event an Outreach Team Evaluator is not available for any reason, the citation shall note the time of contact with the Outreach Team Evaluator and the law enforcement officer shall include an evaluation on the citation.

- ii. Upon conviction for a second violation, the violator may be sentenced to perform up to thirty (30) days of community service.

1. The prosecutor shall have discretion to consider the Outreach Team Evaluator's report or the law enforcement officer's evaluation in determining whether to maintain charges against a violator, and the court may consider this report in determining the appropriate sentence.
2. The court should consider completion of a Community Outreach Services program in determining the appropriate sentence.

c.

Third Violation, and Subsequent Violations:

- i. Upon a third violation, and subsequent violation, the person accused of violating this section shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case, and the law enforcement officer issuing the citation shall request an Outreach Team Evaluator to make an onsite evaluation of the violator.

1. The Outreach Team Evaluator shall make a written evaluation of the person issued a citation under this section, wherein such written evaluation shall be forwarded to the accused and to the prosecutor prosecuting the violation.



2. The Outreach Team Evaluator shall offer immediate referral and direction to an appropriate Community Outreach Services program to each and every person issued a citation under this section.
 3. In the event an Outreach Team Evaluator is not available for any reason, the citation shall note the time of contact with the Outreach Team Evaluator and the law enforcement officer shall include an evaluation on the citation.
- ii. Upon conviction for a third offense, and subsequent offenses, the violator may be sentenced to one or more of the following: direction to a Community Outreach Services program; the performance of up to thirty (30) days community service; a monetary fine not to exceed \$1000; and/or imprisonment not to exceed thirty (30) days.
1. The prosecutor shall have discretion to consider the Outreach Team Evaluator's report or the law enforcement officer's evaluation in determining whether to maintain charges against a violator, and the court may consider this report in determining the appropriate sentence.
 2. The court should consider completion of a Community Outreach Services program in determining the appropriate sentence.
- d. To the extent permitted by state law, information regarding citations issued pursuant to this ordinance shall only be kept in City of Atlanta files and databases.
- e. To the extent permitted by state law, records related to persons to whom a citation has been issued pursuant to this ordinance shall be automatically expunged one year after the issuance of said citation.

SECTION 2

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3

This ordinance shall go into effect immediately upon Mayor's approval.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED as amended by Council
APPROVED by the Mayor

August 15, 2005
August 19, 2005